

Assembly Bill No. 1418

CHAPTER 716

An act to add Article 1.5 (commencing with Section 7063) to Chapter 8 of Part 1 of Division 2 of, and to add Article 9 (commencing with Section 19195) to Chapter 4 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1418, Jerome Horton. Tax: public disclosure of tax delinquencies.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. The sales taxes due under these provisions are generally the obligation of the seller of the personal property. The seller must file a return with the State Board of Equalization and pay all taxes due.

This bill would require the board to make publicly available each quarter a list of the 250 largest tax delinquencies in excess of \$100,000. The quarterly list would contain specified identifying information about the delinquencies. This bill would require the board, prior to placing a person's name on the list, to provide written notice that the person's name will appear on the list if the delinquency is not satisfied. The board would be required to remove certain delinquencies that meet specified criteria within 5 business days, including, among others, those where payment arrangements have been made or a bankruptcy proceeding has been initiated. This bill would also provide that, if a delinquency has been removed pursuant to a resolution of the delinquency, but the terms of the resolution are not complied with, the board shall list the tax delinquency without providing prior written notice.

The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to administer and collect taxes imposed by those laws and require that those taxes be paid at the time and place, as provided.

This bill would require the Franchise Tax Board to make publicly available each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, as specified. The annual list would contain specified identifying information about the delinquencies. This bill would require the Franchise Tax Board, prior to placing a person's name on the list, to provide written notice that the person's name will appear on the list if the delinquency is not satisfied. The Franchise Tax Board would be required to remove certain delinquencies that meet specified criteria within 5

business days, including, among others, those where payment arrangements have been made or a bankruptcy proceeding has been initiated.

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 7063) is added to Chapter 8 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.5. Public Disclosure of Tax Delinquencies

7063. (a) Notwithstanding any other provision of law, the board shall make available as a matter of public record each quarter a list of the 250 largest tax delinquencies in excess of one hundred thousand dollars (\$100,000) under this part. For purposes of compiling the list, a tax delinquency means an amount owed to the board which is all of the following:

(1) Based on a determination made under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of Chapter 5 deemed final pursuant to Article 5 (commencing with Section 6561) of Chapter 5, or that is “due and payable” under Article 4 (commencing with Section 6536) of Chapter 5, or self-assessed by the taxpayer.

(2) Recorded as a notice of state tax lien pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, in any county recorder’s office in this state.

(3) For an amount of tax delinquent for more than 90 days.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency that is under litigation in a court of law.

(2) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the board and the taxpayer is in compliance with the arrangement.

(3) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(c) Each quarterly list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person’s or persons’ last known address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the board shall provide a preliminary written

notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The quarterly list described in subdivision (a) shall include the following:

(1) The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the board has determined to be uncollectible.

(g) A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the quarterly list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If a person fails to do so, the board shall add that person's name to the list of delinquencies without providing the prior written notice required by subdivision (d).

SEC. 2. Article 9 (commencing with Section 19195) is added to Chapter 4 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 9. Public Disclosure of Tax Delinquencies

19195. (a) Notwithstanding any other provision of law, including Section 6254.21 of the Government Code, the Franchise Tax Board shall make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of one hundred thousand dollars (\$100,000) under Part 10 and Part 11 of this division, as of December 31 of the preceding year. For purposes of compiling the list, a tax delinquency

means the total amount owed by a taxpayer to the State of California for which a notice of state tax lien has been recorded in any county recorder's office in this state, pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the Franchise Tax Board and the taxpayer is in compliance with the arrangement.

(2) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(3) A delinquency for which the person or persons liable for the tax have contacted the Franchise Tax Board and for which resolution of the tax delinquency has not been rejected by the Franchise Tax Board.

(c) Each annual list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person's or persons' address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the Franchise Tax Board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the Franchise Tax Board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The annual list described in subdivision (a) shall include the following:

(1) The telephone number and address of the Franchise Tax Board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than five business days from the occurrence of any of the following, the Franchise Tax Board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the Franchise Tax Board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the Franchise Tax Board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the Franchise Tax Board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the Franchise Tax Board has determined to be uncollectible.

(g) A person whose delinquency appears on the annual list, and who satisfies that delinquency in whole or in part, may request the Franchise Tax Board to include in its annual list any payments that person made to satisfy the delinquency. Upon receipt of that request, the Franchise Tax Board shall include those payments on the list as promptly as feasible.